

Information Sheet: Investigations



Health and Disability Services
Complaints Office

The Health and Disability Services Complaints Office (HaDSCO) is an independent Statutory Authority that may undertake investigations into broad systemic issues related to the provision of health, disability or mental health services in Western Australia.

The investigations undertaken by HaDSCO are governed by the *Health and Disability Services (Complaints) Act 1995*, the *Disability Services Act 1993* and the *Mental Health Act 2014*. This legislation sets out the Director's powers and principles for conducting investigations.

Investigations involve a formal process through which HaDSCO determines if any unreasonable conduct has occurred on the part of a service provider.

When and why investigations are undertaken

The legislation provides that the Director may undertake an investigation:

- If a complaint is not suitable to be managed in the negotiated settlement or conciliation processes and warrants investigation.
- If a complaint cannot be resolved through negotiated settlement or conciliation and warrants investigation.
- When the Minister is of the opinion that it is in the public interest on a matter of general importance that an investigation be carried out. At the direction of the Minister for Health or Minister for Disability Services.

Before any investigations are undertaken, a cost-benefit analysis is carried out. The Director will not undertake investigations when the cost outweighs the benefits to be achieved. For example, if all reasonable remedial action has already been undertaken.

The investigation process and powers of the Director

HaDSCO investigations are impartial. HaDSCO prefers to work collaboratively with relevant individuals or organisations in order to gather information. During the investigation process, the investigator may for example, conduct interviews and view documents.

The *Health and Disability Services (Complaints) Act 1995*, the *Disability Services Act 1993* and the *Mental Health Act 2014* provide the Director with powers to:

- Summons individuals or documents.
- Apply for a warrant to enter a premises.
- Enter and inspect premises and take copies of any necessary documents.

At the completion of an investigation the service provider will be provided with the opportunity to respond to the findings and make representation to the Director. If unreasonable conduct is identified HaDSCO may make recommendations for improvement. The provider must advise HaDSCO what measures have been undertaken to comply with the recommendations. Any recommendations made as a result of an investigation will be monitored by HaDSCO.





The difference between investigations and the negotiated settlement and conciliation processes

It is important to understand that the investigation process is quite different to the HaDSCO processes of negotiated settlement and conciliation. The similarity between all the processes is that HaDSCO remains an independent and impartial body throughout all of them.

The key differences are:

- It is the aim of the negotiated settlement and conciliation processes to assist parties to resolve a complaint to mutual satisfaction. Investigations however review the actions of service providers having regard to relevant legislation, standards, charters, plans and principles, and can result in recommendations for service improvement.
- The negotiated settlement and conciliation processes are initiated by a complainant. Investigations are initiated by the Director, the Minister for Health or Minister for Disability services.
- During the negotiated settlement and conciliation processes, both parties are involved in the process. During an investigation, parties are kept informed of progress but are not involved in the process.

Generally individual complaints are more effectively and efficiently resolved through the negotiated settlement and conciliation processes. A complaint may be investigated when the Director or Minister is of the opinion an investigation is warranted. In this case, the role of the complainant is limited. HaDSCO will lead the investigation as an impartial agency and will gather information from a variety of sources to make recommendations.

Contact HaDSCO for more information

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